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30 SEP 2003

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In re Application of :
LEWOLT :
Application No. 10/031,806 :
PCT No.: PCT/US00/12686 :
Int. Filing Date: 08 May 2000 : DECISION
Priority Date: 12 May 1999 :
Atty. Docket No.: D8242-PCT :
For: Interactive Computer Networked :
Study Aid And Guide :
:

This is in response to the "Petition Under 37 CFR 1.181 For The Reconsideration Of The Holding Of Abandonment" filed on 21 July 2003.

BACKGROUND

This international application was filed on 08 May 2000 and claimed an earlier priority date of 12 May 1999. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 13 November 2001 (since 12 November 2001 was a holiday).

On 13 November 2001, applicants filed, *inter alia*, the basic national fee.

On 14 May 2002, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed, requiring an executed oath or declaration of the inventor.

On 10 June 2003, applicant filed a "Status Request..."

On 10 June 2003, a letter was mailed to counsel, indicating that the application was abandoned for failure to timely reply to the Notification of Missing Requirements mailed 14 May 2002. With regard to counsel's request to re-mail the Notification of Missing Requirements based on the Notification allegedly having been sent to an incorrect address, counsel was advised that "since no correspondence address was submitted on filing in accordance with 37 CFR 1.33(a), the address indicated on the Notification was properly picked up from the address listed on the "Express Mail" label."

On 25 June 2003, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicant, indicating that this international application had become abandoned with respect to the United States for failure to timely reply to the Notification of Missing Requirements.

DISCUSSION

Counsel indicates that he "believes that a correspondence address was properly submitted on filing in accordance with 37 CFR 1.33(a). This section requires that

... a correspondence address must be set forth in either an application data sheet (Section 1.76), or elsewhere, in a clearly identifiable manner, in any paper submitted with an application filing.

Attached herewith, as Exhibit A, is a copy of the Transmittal Letter and accompanying documents filed under 35 USC 371 on 10 November 2001. This filing included a Declaration of Mailing by Express Mail, which clearly contains the attorney's typewritten address." Review of the application file reveals the presence of the "Declaration of Mailing by Express Mail" filed on 10 November 2001, which states that "I reside at 2355 Dove Hollow Road Olivenhain, CA 92924...." In view of this clear indication of a correspondence address, it would be appropriate to conclude that the Notification of Missing Requirements of 14 May 2002 was improperly mailed to an incorrect address, and accordingly that it would be appropriate to grant the requested relief.

DECISION

The petition is **GRANTED**.

The holding of abandonment is hereby **WITHDRAWN** and the Notification of Abandonment mailed on 25 June 2003 is **VACATED**.

This application is being forwarded to the National Stage Processing Branch for further processing, including (1) the correction of USPTO records to indicate a correspondence address of "Donald L. Wenskay, Attorney at Law, 132 El Camino Real, Suite 314, Encinitas, CA 92024" and (2) the preparation and mailing of a new Notification of Missing Requirements to counsel at the corrected correspondence address.

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